

AMENDED IN SENATE APRIL 22, 2003

SENATE BILL

No. 689

Introduced by Senator Ortiz

February 21, 2003

An act to add Article 4 (commencing with Section 104210) to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, *and to add Article 4 (commencing with Section 30133) to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code*, relating to cancer.

LEGISLATIVE COUNSEL'S DIGEST

SB 689, as amended, Ortiz. ~~Breast Milk-Healthy Californians Biomonitoring Pilot Program-Project.~~

Existing law provides for various cancer screening and detection programs that are administered by the State Department of Health Services, including the Breast and Cervical Cancer Treatment Program.

This bill would establish the ~~Breast Milk-Healthy Californians Biomonitoring Pilot Program-Project~~, to be administered by the department. This bill would require the department, as part of its duties in regard to the pilot program, to develop ~~an exemplary community-based~~ a biomonitoring pilot program using breast milk as a marker of community health in a minimum of 3 economically, racially, and geographically diverse communities throughout the state. *This bill would also require the department to conduct and complete additional pilot projects using other biomonitoring markers, including blood and urine, by January 1, 2007.* This bill would also require the department to appoint an advisory committee of experts from the breast cancer, public health, environmental health, environmental justice, research, and scientific communities ~~in implementing the pilot program~~

to assist the department in designing and implementing the biomonitoring project and to perform other specified functions.

~~This bill would require the department to adopt regulations implementing these provisions. This bill would require the department to submit a report to the Legislature concerning the pilot program annually each year for a period of 3 years after it has adopted regulations implementing these provisions and the pilot program has been funded and administered.~~

This bill would also create the Healthy Californians Biomonitoring Fund in the State Treasury, which would be available upon appropriation by the Legislature.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the California Families and Children Act of 1998 (Proposition 10), and the Tobacco Tax and Health Protection Act of 1988.

This bill would, beginning on January 1, 2004, impose an additional tax on the distribution of cigarettes and tobacco products at the rate of 0.5 mills for each cigarette distributed. The revenues collected from this additional tax would be deposited in the Healthy Californians Biomonitoring Fund, created by this act, to be used for specified biomonitoring purposes.

By imposing a new tax, this bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) ~~The lifetime risk of breast cancer has increased dramatically~~
- 4 ~~in the last 60 years, rising from 1 in 22 in the 1940s to 1 in 8 today.~~
- 5 ~~Incidence rates continue to increase, making breast cancer the~~
- 6 ~~second leading cause of cancer-related deaths for women in~~
- 7 ~~California. More than 50 percent of breast cancer cases cannot be~~
- 8 ~~explained by known risk factors.~~

1 ~~(b) More than 85,000 synthetic chemicals are registered for use~~
2 ~~in the United States, and another 2,000 are added each year. Of~~
3 ~~those chemicals, only 7 percent have been tested for their effects~~
4 ~~on human health. The evidence linking numerous synthetic~~
5 ~~chemicals to adverse outcomes in human growth and development~~
6 ~~requires investigation and analysis of the effects of these~~
7 ~~contaminants on the human body.~~

8 ~~(c) Levels of synthetic chemicals, also referred to as an~~
9 ~~individual's chemical "body burden," provide information that~~
10 ~~can protect the well-being of individuals and support their ability~~
11 ~~to make informed decisions about their health. The systematic~~
12 ~~collection and analysis of biospecimens from individuals also may~~
13 ~~have significant public health implications since individuals~~
14 ~~body burden data can be used to extrapolate the levels of exposure~~
15 ~~to environmental toxins by a community as a whole. The process~~
16 ~~of measuring the amount of synthetic chemicals in the body by~~
17 ~~examining blood, urine, fat, or breast milk is known as~~
18 ~~biomonitoring.~~

19 ~~(d) Breast feeding is considered to be the optimal choice for the~~
20 ~~health of both infant and mother. Infants who are breast fed have~~
21 ~~stronger immune systems and thus lower incidences of ear and~~
22 ~~throat infections and asthma throughout their childhood.~~

23 ~~(e) Breast feeding has also been shown to promote better motor~~
24 ~~and concentration skills. In addition, adults who were breast fed~~
25 ~~as infants appear less likely to suffer from obesity, diabetes, and~~
26 ~~other chronic health conditions.~~

27 ~~(f) Breast feeding is also advantageous for women, reducing~~
28 ~~the risk of various diseases and infections, including, but not~~
29 ~~limited to, breast and ovarian cancers. Approximately 64 percent~~
30 ~~of women in the United States breast feed, at least initially after~~
31 ~~giving birth, and health professionals and other advocates would~~
32 ~~like to see an increase in breast feeding because of the extensive~~
33 ~~health benefits.~~

34 ~~(g) Science has shown the reliability of breast milk as a marker~~
35 ~~of human exposures to toxic chemicals. Research has detected~~
36 ~~more than 200 synthetic and toxic chemicals, including flame~~
37 ~~retardants, dioxins, polychlorinated biphenyls (PCBs), DDT, and~~
38 ~~other pesticides, in breast milk. Relatively little research has been~~
39 ~~conducted in the United States to determine levels of contaminants~~
40 ~~in humans at this time. Germany and Sweden have national breast~~

1 ~~milk monitoring programs, and this research has broad public~~
2 ~~health implications throughout the world.~~

3 ~~(h) Breast milk biomonitoring is a key research tool in the~~
4 ~~struggle against breast cancer because contaminants are stored in~~
5 ~~the fatty tissue of human bodies. The international research~~
6 ~~community has joined breast cancer advocates in the identification~~
7 ~~of biomonitoring of chemicals as a research priority for breast~~
8 ~~cancer research.~~

9 ~~(i) During lactation, fatty tissue is utilized to produce breast~~
10 ~~milk. Toxic chemicals may become more concentrated in the~~
11 ~~breast during lactation, and may be transferred to the nursing~~
12 ~~infant. Medical experts, including those at the American College~~
13 ~~of Nurse-Midwives and the American Academy of Pediatrics,~~
14 ~~advocate that breast milk remains the healthiest source of nutrition~~
15 ~~for infants, even with toxic contaminants.~~

16 ~~(j) While the presence of synthetic chemicals in breast milk is~~
17 ~~distressing, the presence of these toxic chemicals in breast milk~~
18 ~~also has implications beyond the health of the mother and child as~~
19 ~~evidence of contamination of the communities in which they live.~~

20 ~~(k) Many disenfranchised communities remain at higher risk~~
21 ~~for involuntary exposure to toxic chemicals because of factors,~~
22 ~~including, but not limited to, their proximity to hazardous waste~~
23 ~~incinerators, landfills, powerplants, and superfund sites. People~~
24 ~~who live in these communities could benefit from a better~~
25 ~~understanding of their chemical body burdens.~~

26 ~~(l) The importance of forging a public-private partnership to~~
27 ~~ensure the creation of a model breast milk biomonitoring program~~
28 ~~that meets the needs of diverse communities has been well~~
29 ~~documented. Specifically, African-American women's rates of~~
30 ~~mortality from breast cancer have been shown to be significantly~~
31 ~~higher than those of Caucasian women. Latinas also experience~~
32 ~~similar trends in increased mortality due to breast cancer. In fact,~~
33 ~~breast cancer is the leading cause of cancer deaths among Latinas.~~

34 ~~(m) Therefore, the Legislature declares that the development of~~
35 ~~a statewide breast milk biomonitoring program will expand the~~
36 ~~possibilities for biomedical, epidemiological, and behavioral~~
37 ~~research. Since the United States has conducted only a few~~
38 ~~regional studies, there is a need for the State of California to~~
39 ~~encourage this research because it is vital to the health and~~
40 ~~well-being of millions of citizens, not only in developing~~

~~prevention measures for breast cancer but also for other diseases
related to environmental exposures.~~

(a) Chronic disease has reached epidemic proportions in the United States. An estimated 125 million Americans, or 43 percent of the population, have at least one chronic condition. Approximately 60 million people, or 21 percent of the population, suffer from multiple chronic conditions. Chronic illness also affects the young. Roughly 20 million of America's children suffer from at least one chronic health problem. Cancer, asthma, Alzheimer's disease, autism, birth defects, developmental disabilities, endometriosis, infertility, multiple sclerosis, and Parkinson's disease are becoming increasingly common, and mounting evidence links incidence and severity of these diseases to environmental toxicants.

(b) Cancer is the second most common cause of death after heart disease and accounts for 1 out of every 4 deaths in California. Breast and prostate cancer are the most commonly diagnosed cancers, but lung cancer kills more people than breast, prostate, colon, and rectal cancer combined. Together these cancers account for more than one-half of all cancer diagnoses and deaths. In addition, cancer is the leading disease cause of childhood death.

(c) Approximately 3,000,000 Californians have asthma, nearly 700,000 of them children. Asthma is the most common chronic disease in children, and is the leading cause of school absenteeism. Asthma is most common among African-American and Hispanic communities. Moreover, asthma rates continue to climb in California, and in the central valley, where there are significant concerns about air pollutants. More than 5,000 children in Fresno alone have asthma. Asthma accounts for 14 million missed school days each year.

(d) Chronic diseases cost the state billions of dollars a year. For example, the cost of caring for a person with Alzheimer's disease ranges from \$18,000 to \$36,000 annually, varying as the disease progresses, and costing a total of between \$9 billion and \$18 billion each year in California. Drug treatment alone for Parkinson's disease can cost as much as \$6,000 annually per person with the total cost for Parkinson's disease in California at an estimated \$1,700,000. The estimated total cost of asthma in California is approximately \$1.27 billion annually. The estimated

1 *lifetime costs of medical and other treatment costs, plus lost*
2 *productivity for all affected individuals born in 1988 with one or*
3 *more of the 18 most common birth defects, exceeded \$1 trillion.*
4 *Special education for children with learning disabilities,*
5 *estimated to be more than 1 million California children, could*
6 *carry an annual price tag of \$12 billion. Viewed in economic*
7 *terms, and terms of treatment, care, and lost productivity, the cost*
8 *of chronic diseases is staggering. What is unknown and perhaps*
9 *unknowable, is the cost in human terms, such as the physical and*
10 *emotional suffering of the individuals and families affected, and*
11 *the loss of human potential across the entire spectrum of*
12 *population.*

13 *(e) Smoking costs in California are nearly \$16 billion annually,*
14 *or \$3,331 per smoker every year. Tobacco use is the number one*
15 *cause of preventable disease and premature death, killing 43,000*
16 *Californians each year. Tobacco and tobacco smoke contain over*
17 *4,000 individual compounds, 43 of which are considered*
18 *carcinogenic. Tobacco causes many types of cancer, and 87*
19 *percent of cases of lung cancer, which is the leading cause of*
20 *cancer death, are caused by smoking. Tobacco smoke also*
21 *contains polycyclic aromatic hydrocarbons (PAHs), which appear*
22 *to play a role in the development of breast cancer and may explain*
23 *a potential link between increased breast cancer risk and both*
24 *active and passive smoking. Some studies suggest that women who*
25 *begin smoking cigarettes as adolescents face an increased risk of*
26 *breast cancer. Furthermore, some recent studies suggest that the*
27 *breast cancer risk from exposure to secondhand smoke may be even*
28 *greater than the risk from active smoking.*

29 *(f) Cancer affects all people regardless of race or ethnicity, and*
30 *more than 500,000 Americans were estimated to have died of the*
31 *disease in 2002. While cancer affects all population groups, there*
32 *are clear disparities in those who are affected in disenfranchised*
33 *communities. Those living in depressed socioeconomic situations*
34 *are even more prone to cancer death. For example,*
35 *African-Americans suffer both the highest overall cancer*
36 *incidence and mortality rates. African-American women have the*
37 *highest incidence rates of particular cancers, including colon and*
38 *rectal, and lung and bronchus cancers. Furthermore,*
39 *African-American men have the highest incidence and cancer*
40 *death rates from prostate, colon and rectal, and lung and bronchus*



cancers of any ethnic or racial group. Hispanic women as a racial group have the highest rates of cervical cancer in the nation and suffer from the highest mortality rates from breast cancer. Asians and Pacific Islanders have the highest incidence rates of liver and stomach cancers and the third highest rate of breast cancer after White and African-American women. Moreover, while Native American Indians and Alaskan Natives experience relatively low levels of cancer generally, women from these communities have the third highest rate of death from lung and bronchus cancer, after Whites and African-Americans.

(g) An estimated 85,000 synthetic chemicals are registered for use today in the United States. Another 2,000 chemicals are added each year. Some toxicological screening data exists for only 7 percent of these chemicals. More than 90 percent of these chemicals have never been tested for their effects on human health. Many of these chemicals are in daily use in cosmetics, hair products, pesticides, food dyes, cleaning products, fuels, and plastics. Furthermore, many of these chemicals persist in the environment, and accumulate and remain in body fat, including breast tissue, for decades.

(h) The process of measuring the amount of synthetic chemicals in the body by examining blood, urine, fat, or breast milk is known as biomonitoring. The level of synthetic chemicals in a person's body is also referred to as their chemical "body burden." Body burden studies are essential tools that can help us better understand the environmental factors that are linked to unusually high rates of disease in particular communities. Biomonitoring can also provide information on a person's susceptibility to disease, or on early signs of an effect from chemical exposure. Thus, biomonitoring can be a tool that may protect the well-being of individuals and support their ability to make informed decisions about their health.

(i) The data produced through biomonitoring can support efforts to improve public health by indicating trends in chemical exposures, validating exposure modeling and survey methods, supporting epidemiological studies, identifying disproportionately affected communities or particularly vulnerable communities, identifying new chemicals of concern, linking environmental exposures and pollution-related disease, assessing the effectiveness of current regulations, and helping to

1 *set priorities for action. Furthermore, the systematic collection*
2 *and analysis of biospecimens from individuals may also have*
3 *significant public health implications since individual*
4 *body-burden data may be used to extrapolate the levels of exposure*
5 *to environmental toxicants by a community as a whole.*

6 *(j) Biomonitoring studies have shown human contamination*
7 *with a multitude of persistent chemicals is both chronic and*
8 *widespread. The first National Human Exposure to Environmental*
9 *Chemicals report, released by the Centers for Disease Control and*
10 *Prevention (CDC) in March 2001, revealed the presence of 27*
11 *chemicals in the bodies of Americans. The most recent CDC report,*
12 *released January 31, 2003, documented the presence of 89*
13 *environmental chemicals in the blood and urine of Americans of*
14 *all ages and races.*

15 *(k) Science has shown the reliability of breast milk as a marker*
16 *of human exposures to toxic chemicals and as a tool for monitoring*
17 *community health. Breast milk research has detected more than*
18 *200 toxic and synthetic chemicals, including flame retardants,*
19 *dioxins, polychlorinated biphenyls (PCBs), DDT, and other*
20 *pesticides. The widespread presence of contaminants in breast*
21 *milk is a major cause for concern, not only for the health of babies*
22 *and children but also for the health of their mothers and, indeed,*
23 *all women. Like no other body fluid, breast milk reflects the*
24 *internal contamination of the target organ for breast cancer. Many*
25 *of the contaminants found in breast milk are known to cause*
26 *mammary tumors in animals. Germany and Sweden have national*
27 *breast milk monitoring programs and this research has broad*
28 *public health implications throughout the world. However, to date,*
29 *relatively little research has been conducted in the United States*
30 *to determine levels of contaminants in humans.*

31 *(l) Humans are exposed to toxic chemicals through a variety of*
32 *pathways, including the air they breathe, the food they eat, the*
33 *water they drink and bathe in, and the products they use.*
34 *Chemicals come to us from industrial processes, from storage sites*
35 *and toxic waste dumps, and from agricultural use, all of which*
36 *release chemicals into the soil, air, and water. Commercial*
37 *products manufactured by industry, including products used in or*
38 *around the home, contain chemicals that may pose exposure risks*
39 *for humans.*



(m) *The health and well-being of the public is assured in part by the public's right to know about health hazards in the workplace, home, and environment. This right-to-know principle is supported in recent occupational and environmental law. The use of this information requires the public to be educated because the public is not aware of the nature, extent, and health significance of body burdens of industrial chemicals.*

(n) *The priority public policy recommendation from the 2002 International Summit on Breast Cancer and the Environment, held in Santa Cruz, California, was to establish a national biomonitoring program in the United States using breast milk and other biospecimens to assess community health. The 2003 report by the CDC clearly demonstrates that public policy changes based on biomonitoring and appropriate public health surveillance make a difference. For example, since laws mandated removal of lead from gasoline and paint, blood levels of lead in children have plummeted. Efforts to reduce exposure to secondhand tobacco smoke have reduced the levels of cotinine, the metabolite of nicotine. Yet, detectable levels of many long-banned chemicals, such as DDT and heptachlor, persist, even in the bodies of those born after the bans. Alarming, there are new commercial chemicals with the same characteristics as these contaminants.*

(o) *Therefore, the Legislature declares that a statewide biomonitoring program will expand the possibilities for biomedical, epidemiological, and behavioral public health research. Since a statewide program of this nature has not been implemented to date, there is a need for California, an established leader in health promotion, health policy, and health care delivery and response, to encourage and fund this research, which is vital to the health and well-being of millions of citizens by developing prevention measures for a full spectrum of diseases related to environmental exposures.*

SEC. 2. Article 4 (commencing with Section 104210) is added to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, to read:

Article 4. ~~Breast Milk Biomonitoring Pilot Program~~ *Healthy Californians Biomonitoring Project*

~~104210. (a) The department shall develop an exemplary community-based biomonitoring pilot program using breast milk as a marker of community health. The pilot program shall promote breast-feeding, identify the chemicals that are present in breast milk, establish links to specific environmental toxins and geographic areas, and initiate a plan to eliminate these contaminants.~~

~~(b) The pilot program shall be tested as a model biomonitoring program in a minimum of three economically, racially, and geographically diverse communities throughout the state, and the department shall adapt the program as needed.~~

~~(c) The department shall appoint an advisory committee, composed of experts from the breast cancer, public health, environmental health, environmental justice, research, and scientific communities. The advisory committee shall advise the department on implementation and evaluation of the pilot program, and, if needed, any revisions to the model training program, resource materials, and outreach materials based on information gleaned from the pilot program.~~

~~(d) An entity identified by the Legislature shall oversee the design of a community-based, participatory research project that involves members of the communities where the pilot program is being conducted in the design, implementation, and evaluation of the research and in the communication of the research findings to the community.~~

~~(e) The department shall develop a model training program for health care providers, health educators, and other program administrators that communicates the benefits of assessing chemical body burdens while promoting the importance of breast-feeding. This model training program shall be disseminated as necessary.~~

~~(f) Promotion of the full spectrum of activities that support breast-feeding, including, but not limited to, adequate maternity leave, mother and baby friendly public spaces, and workplace spaces shall be required in the test communities.~~

~~(g) The program established by this article shall include all of the following:~~

~~(1) Comprehensive educational and resource materials for program participants that communicate the dual benefits of understanding community health by measuring chemical body burdens while promoting breast milk as the healthiest, most nutritious food for infants.~~

~~(2) The development of a model protocol for any future programs that addresses the science and practice of conducting biomonitoring using breast milk and that engages the community and promotes breast feeding.~~

~~(3) Community outreach materials that address confidentiality concerns and communicate the benefits of measuring chemical body burdens while promoting breast feeding. These materials shall be disseminated to organizational and individual participants, and shall include, but not be limited to, information that does each of the following:~~

~~(A) Explains individual body burden analysis of the chemicals being investigated.~~

~~(B) Explains routes and levels of exposure.~~

~~(C) Describes population-based health effects and toxicity.~~

~~(D) Describes steps individuals can take to reduce their exposure to environmental toxins.~~

~~(E) Outlines steps being taken by local, state, and federal governmental entities to regulate or eliminate dangerous exposures.~~

~~(h) The department shall adopt regulations to implement this section.~~

~~(i) The department shall submit a brief report to the Legislature after the regulations to implement this section have been adopted, and annually each year, for three years after the pilot program has been funded and administered. The annual report shall include a program description, methodology, and program outcomes, and shall assess the goals of the different criteria for the pilot program. The department shall consult with the advisory committee established pursuant to subdivision (c), and other appropriate scientific entities, as part of the reporting process.~~

~~(j) As used in this article, “chemical body burden” means the level of a synthetic chemical in an individual.~~

~~104210. This article shall be known, and may be cited, as the Healthy Californians Biomonitoring Act.~~

1 104211. The department shall develop a statewide
2 biomonitoring program, hereby named the Healthy Californians
3 Biomonitoring Project, that utilizes blood, urine, breast milk, and
4 other biospecimens, as appropriate, to identify the chemicals that
5 are present in the bodies of Californians, to investigate
6 relationships between specific environmental toxicants and
7 geographic areas, and, in concert with other concerned parties,
8 initiate plans to minimize or eliminate exposure to these
9 contaminants.

10 104212. On or before July 1, 2004, the department shall
11 establish the Healthy Californians Biomonitoring Project
12 Advisory Committee, referred to in this article as the advisory
13 committee, that shall advise the department on the process for
14 designing and implementing a series of pilot programs, which are
15 intended to form the basis of a model statewide biomonitoring
16 program.

17 104213. (a) The members of the advisory committee shall
18 represent a diverse scope of expertise and experience and shall
19 provide advice on planning, protocol development, guidance, and
20 evaluation of the pilot biomonitoring projects established
21 pursuant to this article.

22 (b) The advisory committee shall consist of no fewer than 13
23 members recommended by relevant organizations and appointed
24 and removed by the director. Each member shall be appointed for
25 a three-year term. The committee shall consist of the following
26 members:

27 (1) Four members from the following nonprofit and
28 community-based environmental health and disease groups:

29 (A) One member from a breast cancer organization.

30 (B) One member from an environmental health organization.

31 (C) One member from an environmental justice organization.

32 (D) One member from an organization promoting
33 breastfeeding.

34 (2) Three community members, each representing one of the
35 three communities participating in the pilot program described in
36 Section 104213.

37 (3) Two members drawn from the ranks of scientists or
38 clinicians, including one from an independent research university
39 in California. These scientists shall have expertise in conducting
40 or interpreting biomonitoring studies or in the relevant fields of

1 science, including, but not limited to, the fields of biomedical
2 research, social, economic, and behavioral research,
3 epidemiology, and public health.

4 (4) One member from a nonprofit health organization or health
5 care facility with a commitment to disease prevention, research,
6 and control.

7 (5) One member from private industry with a proven track
8 record and consistent commitment to sustainable business
9 practices.

10 (6) One *ex officio*, nonvoting member from the State
11 Department of Health Services.

12 (7) One *ex officio*, nonvoting member from the California
13 Environmental Protection Agency.

14 (c) If the director appoints more than 13 members, it is the
15 intent of the Legislature that the proportional representation of the
16 increased membership remain substantially the same as set forth
17 in subdivision (b).

18 (d) Members shall serve without compensation, but shall be
19 reimbursed for travel and other necessary expenses incurred in the
20 performance of their official duties from the Healthy Californians
21 Biomonitoring Project Fund created pursuant to Section 104224.

22 (e) Membership shall be staggered so as to maintain a full
23 committee while ensuring a reasonable degree of continuity of
24 expertise and consistency of direction.

25 104214. (a) The advisory committee shall assist with the
26 following activities:

27 (1) Selecting the implementation sites for the project.

28 (2) Identifying chemicals to be tracked.

29 (3) Describing the purpose for tracking the chemical.

30 (4) Choosing the biospecimens to be utilized.

31 (5) Determining the number of people to include in the pilot
32 program.

33 (6) Designing a sampling scheme and measurement method.

34 (7) Collecting and analyzing the data.

35 (8) Distributing the information to biomonitoring program
36 participants and the public.

37 (9) Reporting to the Legislature and assessing the policy
38 implications of the findings.

39 (b) The advisory committee shall take into consideration the
40 criteria developed and recommendations generated by the State

1 *Department of Health Services Biomonitoring Planning Project,*
2 *the California Environmental Health Tracking Network, and the*
3 *California Environmental Health Tracking Program when*
4 *choosing community-based partners and identifying*
5 *implementation sites.*

6 *(c) The advisory committee shall meet as often as it deems*
7 *necessary.*

8 *104215. (a) An entity or entities identified by the department*
9 *shall develop model protocols, or program guidelines, that*
10 *address the science and practice of biomonitoring utilizing breast*
11 *milk, blood, and urine in a manner that is participatory,*
12 *community-based, and involves representatives of the affected*
13 *communities in the design, implementation, evaluation, and*
14 *communication of findings.*

15 *(b) For biomonitoring using breast milk, the protocols shall*
16 *include guidelines that engage the community and effectively*
17 *promote breastfeeding. These guidelines shall be developed by the*
18 *department and adopted as regulations for any future programs.*

19 *(c) The model protocols shall include, but not be limited to,*
20 *guidelines for ensuring confidentiality, informed consent,*
21 *providing followup counseling and support where appropriate,*
22 *and communicating findings to participants of biomonitoring*
23 *studies and members of the affected and participating*
24 *communities.*

25 *104216. (a) In developing a statewide biomonitoring*
26 *program, the department shall first establish a community-based*
27 *biomonitoring pilot program using breast milk as a marker of*
28 *community health that promotes breastfeeding, identifies the*
29 *chemicals that are present in breast milk, investigates*
30 *relationships between specific environmental toxins and*
31 *geographic areas, and initiates plans to minimize or eliminate*
32 *exposure to these contaminants.*

33 *(b) The pilot program shall be implemented as a model breast*
34 *milk biomonitoring program in a minimum of three economically,*
35 *racially, and geographically diverse communities within the state.*

36 *(c) Education regarding the health benefits of breastfeeding, as*
37 *well as regarding current laws and policies that promote and*
38 *support breastfeeding, shall be included as a component of the*
39 *pilot program.*

1 (d) All materials developed to implement the breast milk
2 biomonitoring pilot program, including, but not limited to, the
3 training program, educational materials, and community
4 outreach materials developed pursuant to Section 104217, shall
5 promote breastfeeding and communicate the benefits of breast
6 milk as the healthiest, most nutritious food for infants.

7 (e) The advisory committee shall review and advise the
8 department on the implementation of the pilot breast milk
9 biomonitoring program, and the evaluation of any necessary
10 revisions to the model training program, educational, resource,
11 and outreach materials.

12 (f) The breast milk biomonitoring pilot program, including
13 materials development, site identification, project planning,
14 design, and implementation, shall be implemented by July 1, 2005.

15 (g) The department, in consultation with the advisory
16 committee, shall identify and establish subsequent pilot programs
17 that utilize biospecimens other than breast milk. Subsequent
18 programs shall be based on the models and protocols developed
19 in the first pilot program. These additional biomonitoring pilot
20 programs shall be completed on or before January 1, 2007.

21 104217. (a) A training program for health care providers,
22 health educators, and other program administrators that
23 communicates the benefits of assessing chemical body burdens
24 shall be developed and disseminated to aid in the implementation
25 of the pilot biomonitoring programs established pursuant to
26 Section 104216.

27 (b) Educational and outreach materials that effectively
28 communicate the benefits to community health of measuring
29 chemical body burdens shall be developed and disseminated to
30 biomonitoring program participants and to community members
31 where the pilot programs are conducted. Additionally, resource
32 materials shall be developed that communicate scientific findings
33 to participants of biomonitoring studies and members of the
34 affected or participating communities. Followup counseling and
35 support shall be provided where appropriate. Educational and
36 outreach materials shall be translated as needed and shall include
37 information that discusses and explains the following:

38 (1) Body burden analysis of the chemicals being investigated.

39 (2) Routes of exposure.

40 (3) Population-based health effects and toxicity.

1 (4) Steps individuals can take to reduce their exposures to
2 environmental toxicants.

3 (5) Steps being taken by local, state, and governmental entities
4 to regulate, minimize, and eliminate exposures to toxicants.

5 104218. Funds shall be made available pursuant to Section
6 104224 to strengthen and expand the department's laboratory
7 capacity, including, but not limited to, funds for the following
8 activities:

9 (a) Acquisition of necessary laboratory instrumentation
10 capable of and dedicated to biomonitoring.

11 (b) Testing for a broader range of chemicals and identifying
12 new chemicals of concern.

13 (c) Carrying out efficient biomonitoring testing in a timely
14 manner; adapting peer-reviewed testing protocols developed by
15 the Centers for Disease Control and Prevention, the University of
16 California, and other scientific, academic, or government
17 agencies; and creating the necessary infrastructure to collect,
18 store, and analyze biospecimens gathered through this program.

19 (d) Hiring necessary laboratory and program staff with
20 specific training in biomonitoring and exposure assessment to
21 assist with the design of research questionnaires and the analysis
22 of data.

23 104219. The department, in collaboration with the advisory
24 committee, shall design the biomonitoring programs in a way that
25 further normative data collection by taking into consideration
26 factors that include the representativeness of the sampled
27 population, the identification of disproportionately exposed
28 subpopulations, the collection of data that will provide useful
29 information about a range of Californians in a variety of
30 geographic areas, and the collection of data that may provide
31 information about trends over time.

32 104220. (a) On January 1, 2005, and annually thereafter, the
33 department shall provide a report to the Legislature describing a
34 summary of activities conducted pursuant to the statewide
35 biomonitoring program, including program descriptions,
36 methodology, program outcomes, and assessment of the goals of
37 the various biomonitoring activities conducted pursuant to this
38 act.

39 (b) On January 1, 2007, and annually thereafter, the
40 department shall, in consultation with the advisory committee,

1 *develop and forward recommendations to the Legislature*
2 *regarding the creation of a permanent California biomonitoring*
3 *program based on the findings of the pilot programs.*

4 *(c) Upon the full implementation of the pilot programs, the*
5 *department shall, in consultation with the advisory committee,*
6 *develop regulations based on an evaluation of the pilot programs,*
7 *to guide all future biomonitoring programs that are supported by*
8 *public funds.*

9 *104221. The Healthy Californians Biomonitoring Project*
10 *shall be funded from money in the Healthy Californians*
11 *Biomonitoring Project Fund, created pursuant to Section 104224.*
12 *The department, in administering this program, may also seek*
13 *nonstate funding, including federal and private foundation funds,*
14 *to support the Healthy Californians Biomonitoring Project.*

15 *104222. The funding made available to the Healthy*
16 *Californians Biomonitoring Project shall be available for all of*
17 *the following:*

18 *(a) Protocol development.*

19 *(b) Training program development.*

20 *(c) Education, resource, and outreach materials.*

21 *(d) Advisory committee support.*

22 *(e) Design and implementation of general biomonitoring*
23 *programs.*

24 *(f) Design and implementation of a breast milk monitoring pilot*
25 *program.*

26 *(g) Laboratory capacity expansion.*

27 *(h) Normative data collection.*

28 *(i) Program and data analysis.*

29 *(j) Policy formulation.*

30 *(k) Planning and evaluation activities.*

31 *104223. Costs associated with departmental administration*
32 *of the project, excluding direct costs related to implementation of*
33 *the activities described in Section 104220, shall not exceed 10*
34 *percent of the amount appropriated from the Healthy Californians*
35 *Biomonitoring Project Fund established pursuant to Section*
36 *104224 for the purposes of administering this act in any fiscal year.*

37 *104224. There is hereby created in the State Treasury the*
38 *Healthy Californians Biomonitoring Project Fund. The fund shall*
39 *be administered by the department to implement the Healthy*
40 *Californians Biomonitoring Project, and shall contain funds*

1 collected pursuant to Article 4 (commencing with Section 30133)
2 of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation
3 Code. Moneys in the fund shall be available upon appropriation
4 by the Legislature.

5 SEC. 3. Article 4 (commencing with Section 30133) is added
6 to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation
7 Code, to read:

8
9 Article 4. Biomonitoring Surtax on Tobacco

10
11 30133. (a) In addition to the taxes imposed upon the
12 distribution of cigarettes by Article 1 (commencing with Section
13 30101), Article 2 (commencing with Section 30121), Article 3
14 (commencing with Section 30131), and any other taxes in this
15 chapter, there shall be imposed an additional surtax upon every
16 distributor of cigarettes at the rate of 0.5 mils (\$0.0005) for each
17 cigarette distributed.

18 (b) The tax imposed under this section shall be imposed on
19 cigarettes in the possession or under the control of every dealer
20 and distributor on and after 12:01 a.m. on January 1, 2004.

21 30134. For purposes of this article, "cigarette" has the same
22 meaning as in Section 30003.

23 30135. (a) Every dealer and wholesaler, for the privilege of
24 holding or storing cigarettes for sale, use, or consumption, shall
25 pay a floor stock tax for each cigarette in his or her possession or
26 under his or her control in this state at 12:01 a.m. on January 1,
27 2004, at the rate of 5 tenths of a cent (\$0.0005) for each cigarette.

28 (b) Every dealer and wholesaler shall file a return with the
29 board on or before March 30, 2004, on a form prescribed by the
30 board, showing the number of cigarettes in his or her possession
31 or under his or her control at 12:01 a.m. on January 1, 2004. The
32 amount of tax shall be computed and shown on the return.

33 (c) Every licensed cigarette distributor, for the privilege of
34 distributing cigarettes and for holding or storing cigarettes for
35 sale, use, or consumption, shall pay a cigarette indicia adjustment
36 tax for each California cigarette tax stamp that is affixed to any
37 package of cigarettes and for each unaffixed California cigarette
38 tax stamp in his or her possession or under his or her control at
39 12:01 a.m. on January 1, 2004, at the following rates:

1 (1) *One and one-fourth cents (\$0.0125) for each stamp bearing*
2 *the designation “25.”*

3 (2) *One cent (\$0.01) for each stamp bearing the designation*
4 *“20.”*

5 (3) *One-half cent (\$0.005) for each stamp bearing the*
6 *designation “10.”*

7 (d) *Every licensed cigarette distributor shall file a return with*
8 *the board on or before March 30, 2004, on a form prescribed by*
9 *the board, showing the number of stamps in paragraphs (1), (2),*
10 *and (3) of subdivision (c). The amount of tax shall be computed and*
11 *shown on the return.*

12 (e) *The taxes required to be paid by this section are due and*
13 *payable on or before March 30, 2004. Payments shall be made by*
14 *remittances payable to the board and the payments shall*
15 *accompany the forms required to be filed by this section.*

16 (f) *Any amount required to be paid by this section that is not*
17 *timely paid shall bear interest at the rate and by the method*
18 *established pursuant to Section 30202 from March 30, 2004, until*
19 *paid, and shall be subject to determination, and redetermination,*
20 *and any penalties provided with respect to determinations and*
21 *redeterminations.*

22 (g) *All funds collected pursuant to this article shall be*
23 *deposited in the Healthy Californians Biomonitoring Fund,*
24 *created pursuant to Section 104224 of the Health and Safety Code.*